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| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/264,432 | GOLDMAN ET AL. | |
| | Examiner | Art Unit | |
| | Scott Beliveau | 2614 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06 May 2005.
2. ☒ The allowed claim(s) is/are 4,5,7,8,15,19,33-42,44,46,47,49-62 and 66-71 (renumbered as 2-9,14-22,1,10,11,23-26,29-33,40,34-37,12,27,38,13,28 and 39).
3. ☒ The drawings filed on 01 March 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Page 12, Lines 7-16, filed 06 May 2005, with respect to the combined references and in particular the Bedard reference failing to disclose updating the profile every time a television program is viewed have been fully considered and are persuasive. The rejection of claims 4, 5, 7, 8, 14, 15, 19, 33-42, 44, 46, 47, 49-62, and 66-71 has been withdrawn.

Allowable Subject Matter

2. Claims 4, 5, 7, 8, 14, 15, 19, 33-42, 44, 46, 47, 49-62, and 66-71 are allowed.

The following is an examiner's statement of reasons for allowance:

The art of record fails to teach or suggest the claim taken as a whole and in particular the limitation pertaining to the "remote server accessing a profile . . . wherein the user profile is updated every time the client views a television program" and "includes information related to only a most recently viewed television program . . .".

With respect to the art of record directed towards these limitations, the examiner concurs with the applicant's assessment of the Bedard reference in that Bedard teaches away from updating of the profile every time a television program is viewed. Rather, the reference explicitly teaches that the viewer must watch a television program for an significant viewing period (eg. 1 minute, 5, minutes, 10 minutes, etc.) for the profile to be updated. Accordingly, the reference taken as a whole fails to teach the particular limitation wherein the profile is updated "every time the client views a television program".

The Alexander et al. reference, of record, discloses a method for inserting advertisements and updating a viewer profile based upon the most recently viewed program (Col 33, Lines 26-65). However, the reference teaches away from the profile “including information related to only a most recently viewed program . . . “. Rather, the reference discloses recording a variety of information regarding a viewer’s viewing history associated with a plurality of programs over and above only the most recently viewed program (Col 28, Line 10 – Col 28, Line 67) in order to infer the user’s interests so as to select a targeted advertisement. Accordingly, while the reference teaches the missing limitation of the Bedard reference, the reference taken as a whole fails to teach or suggest the limitation that the profile “includes information related to only a most recently viewed program . . . “.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB

May 17, 2005



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600